THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

+W.P.Nos.19409, 19738, 19756, 19871 of 1997
(Common Judgment)

% 30.11.2007

Between:

Matrusri Educational Society
Rep. by its Secretary,

…Petitioner

AND

Sub Registrar, Medchal
R.R. District, and another

.....Respondents

! COUNSEL FOR Petitioner: Sri Y. Ratnakar

^ COUNSEL FOR RESPONDENTS: G.P. for Revenue

< Gist:

> Head Note:

? CITATIONS:

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

W.P.Nos.19409, 19738, 19756, 19871 of 1997
(Common Judgment)

Dated 30.11.2007

Between:

Matrusri Educational Society
Rep. by its Secretary,

…Petitioner

AND

Sub Registrar, Medchal
R.R. District, and another

Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition Nos.19409, 19738, 19756 & 19871 of 1997

COMMON JUDGMENT:

These four writ petitions are filed by the same petitioner and against the same respondent. The petitioner-Society entered into agreements of sale, for purchase of Ac.49.23 guntas of land in various survey numbers of Bowrampet Village of Kuthbullapur Mandal, Ranga Reddy District, in the year 1982. Sale deeds were executed in its favour, in respect of Ac.40.90 guntas, up to December 1990. As regards the balance extent of Ac.9.04 guntas, sale deeds were executed on 12-08-1991, and they were presented for registration. The consideration for the lands was shown at Rs.10,000/- per acre, in the agreements of sale. On the basis of the value mentioned in the basic registers, maintained by the office of the Sub-Registrar, the 1st respondent, stamp duty and registration charges were paid Rs.16,500/- per acre, which was also the value adopted for the sale deeds in respect of Ac.40.90 guntas.

The 1st respondent doubted the correctness of the market value, furnished by the

petitioner, and referred the matter to the

2nd respondent, for determination under Section 47-A of the Indian Stamp Act (for short 'the Act'). The documents were assigned pending registration numbers. The 2nd respondent passed orders dated 17-08-1992, determining the value at a far higher rate, separately, as regards each document, and requiring the petitioner to pay the balance of stamp duty and registration charges. Aggrieved thereby, the petitioner filed Civil Miscellaneous Appeals before the Court of Principal Subordinate Judge, Ranga Reddy District, under Section 47-A of the Act. The appeals were dismissed through separate orders dated 24-07-1996. Hence, these four writ petitions.

Sri Y.Ratnakar, learned counsel for the petitioner, submits that though Section 47-A of the Act mandates that the price, which,

in the opinion of the Collector, or the Appellate Authority, would have fetched, or would fetch, if the properties sold in open market, as on the date of the execution of the instrument; is to betaken into account, the disadvantages, or encumbrances, which are inhere in the transaction, cannot be ignored. He contends that the lands covered by the four sale deeds are already burdened with the agreements of sale, in the year 1982, and possession thereof, was already delivered to the petitioner, and the value must be ascertained, keeping in view these factors. Learned counsel submits that no prudent person would purchase any land, which is in possession of an agreement-holder, and treating the land, as though it is readily available for third parties, is untenable in law.

He draws the analogy with Section 7 of the Wealth Tax Act, and the judgments rendered thereon, when that Act was in force. He submits that the lower Appellate Court did not appreciate the matter from the correct perspective.

Learned Government Pleader for Revenue, on the other hand, submits that, in the context of assessment of the value of the property covered by sale deed, under Section 47-A of the Act, it is totally impermissible for Registering Authority, to take into account the advantages or disadvantages, attached to such properties.

He contends that since the title in the properties is transferred, no other consideration deserves to be taken into account. Learned Government Pleader submits that there cannot be any comparison between the provisions of the Wealth Tax Act, on the one hand, and that of the Stamp Act, on the other hand.

The agreements of sale, in respect of about 50 acres, were entered into way back in the year 1990. Almost after a decade, sale deeds were executed in respect of about 41 acres. As regards the balance of 9 acres, sale deeds were presented for acquisition, in August 1991, by taking the value of the land at Rs.16,500/- per acre, and by paying the stamp duty and registration charges thereon. While making reference under Section 47-A of the Act, the 1st respondent took the view that the stamp duty payable thereon, according to

the present market value; is far higher, and sought the opinion of the 2nd respondent. The particulars of the stamp duty and the amount assessed by the 1st respondent, are as under:

Area Document Ac.Gts.	Stamp duty Number	Extra amount paid (Rs.)	Deficit Stamp duty Assessed (Rs.)	payable
3.35	P.80/91	7,050	58,240	51,190
2.22	P.81/91	4,660	67,905	63,245
1.25	P.82/91	2,970	33,275	30,305
1.02	P.83/91	1,920	27,975	26,055
9.04				

After issuing notices to the petitioner and examining the matter in detail, the 2nd respondent affirmed the facts and figures presented by the 1st respondent. This view was also upheld by the Civil Court in appeals filed under Section 47-A of the Act.

The petitioner does not seriously dispute the market value arrived at by the respondents, as per the rates that prevailed as on the date of representation of the document. Their contention is that, since the land was already agreed to be sold and possession was parted by the owner, the land would not fetch the normal rate, if offered to the third party. They intend to invite a hypothetical situation of the property being offered for sale by the land-owner,

to third parties, even while the agreements in favour of the petitioner subsists and the possession was delivered to it. In a way, it can be said that the petitioner wants the respondents to face a situation, which is brought into existence by the petitioner itself. Such an approach can not at all be countenanced. When the holder of the agreement and the purchaser under the sale deed is one and the same, there is no basis or foundation for the point of view, urged by the petitioner.

Even otherwise, it is not at all the concern of the Registering Authorities, to assess the advantage or disadvantage of a property, in the context of determining the stamp duty and registration charges. Section 47-A of the Act is very clear in its purport, and it does not permit of any such exercises. In fact, any inroads made into the process of ascertaining the market value on the basis of advantages or disadvantages, would lead to disastrous consequences and the whole objectivity would be wiped off.

This Court is not impressed by the analogy drawn by the petitioner, between Section 47 of the Act, on the one hand, and Section 7 of the Wealth Tax Act. The purposes underlying these two enactments are totally different. While the one relates to the transfer of

title, the other relates to levy of tax, on the mere ground that the person holds the property.

The lower Appellate Court had examined the matter, in detail, with reference to the undisputed facts and settled principles of law. A writ petition cannot be treated as a further appeal, against the order passed by the Civil Court, in an appeal preferred under Section 47-A of the Act.

Hence, the writ petitions are dismissed. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt. –11-2007.

KO